



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

Before: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filed by: Registrar

Date: 17 September 2024

Language: English

File Name: The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi and Jakup Krasniqi

Classification: Public

**Public Redacted Version of “Registry Assessment Regarding Prosecution’s
Request for Video-Conference Testimony for W04422”**

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1. Pursuant to Rules 23(2) and 144 of the Rules,¹ and Article 3 of the Practice Direction on Video Links,² the Registrar hereby submits her assessment of the feasibility of facilitating the testimony of witness W04422 via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 10 September 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witness W04422 to be heard via video-link from [REDACTED] ('Request').³ The SPO has provided information on: (a) when the witness is expected to testify (on [REDACTED] 2024)⁴; (b) the expected duration of direct examination ("no more than one (1) hour", [REDACTED]);⁵ (c) the country details [REDACTED];⁶ (d) protective measures;⁷ (e) the language the witness will testify in (Albanian);⁸ and (f) information on the witness's health and special needs.⁹

3. [REDACTED].¹⁰

4. [REDACTED].¹¹

¹ Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

² Registry Practice Direction on Video Links, KSC-BD-23/COR, 17 July 2020 ('Practice Direction on Video Links'); *see also* Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2013, art. 34(3).

³ KSC-BC-2020-06, F02543, Prosecution request for video-conference testimony for W04422, 10 September 2024, confidential (*see also* F02543/RED).

⁴ Request, para.9(i): "W04422 is currently anticipated to testify on [REDACTED] 2024."

⁵ Request, para.9(ii). [REDACTED]. [REDACTED]. *See* [REDACTED].

⁶ Request, para.9(iii): "the SPO requests W04422 to appear via video-conference from [REDACTED]."

⁷ Request, para.9(iv): "the witness has in-court protective measures, including pseudonym and closed session." *See* F00133COR, Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures, 10 December 2020, strictly confidential and *ex parte* (*see also* F00133COR/CONF/RED, 14 December 2020).

⁸ Request, para.9(vi): "W04422 will testify in Albanian".

⁹ Request, para.9(v): "the SPO is not aware of any other special needs."

¹⁰ [REDACTED].

¹¹ [REDACTED].

II. APPLICABLE LAW

5. Pursuant to Rule 144 of the Rules, the Panel may order that testimony be received via video-conference, provided that such technology permits the witness to be properly examined. The Registrar shall ensure the efficient and expeditious implementation of any such order.

6. Pursuant to Article 3(1) of the Practice Direction on Video Links, “[t]o ensure the efficient preparation and organization of the Video Link, the Party requesting a Video Link shall, prior to or at the time of the request, inform the Registrar, in writing” of certain specified information.

7. Pursuant to Article 3(3) of the Practice Direction on Video Links, the Registrar may seek additional information, if required, to complete the assessment.

8. Pursuant to Article 3(4) of the Practice Direction on Video Links, the Registrar’s assessment shall address:

- a. any necessary measures to be taken as a result of a potential risk to ensure:
 - (1) the safety, well-being, dignity and privacy of individuals expected to participate in the planned Video Link; and
 - (2) in the event that the Video Link is intended for the taking of witness testimony, that the Video Link is conducted in a venue conducive to the giving of truthful and open testimony;
- b. information on consultations with a State, where applicable;
- c. the time required by the Registry to implement the order for the use of the Video Link; and
- d. the general feasibility of conducting the Video Link.

III. SUBMISSIONS

A. Feasibility assessment of video-link testimony

9. The Registry has conducted an assessment in accordance with Article 3(4) of the Practice Direction on Video Links, in light of the envisaged scheduling of the testimony of witness W04422, the expected duration of testimony, the country and

location details, the applicable protective measures, and the language of the witness.¹² The Registry has also assessed the location and the technical specifications that would be required to facilitate the testimony of the witness via video-link at a venue conducive to giving truthful and open testimony, and with the necessary measures in place to ensure the safety, well-being, dignity and privacy of the witness.

10. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimony of witness W04422 via video-link, as further elaborated below.

11. The Registry notes that the witness benefits from in-court protective measures, namely use of a pseudonym and closed session.¹³ Therefore, in light of the protective measures granted, the Registry assesses that secure video-conference ('VTC') facilities are required.

12. The Registry has assessed that the most suitable location to facilitate the testimony of the witness is [REDACTED]. This venue for the video-link testimony would also comply with the following requirements:

- a. the video-link location is on secure premises free from interference, to the extent possible, within the control of the competent authorities, where the confidentiality of the proceedings can be assured;
- b. the video-link testimony would take place in a room that is sound proof, with appropriate lighting, and where the risk of disruption from outside noise is minimised;
- c. the witness would not be permitted to take any electronic devices into the video-link room.

13. [REDACTED]. [REDACTED].

¹² Practice Direction on Video Links, art. 3(1)(a).

¹³ See fn. 7 above.

14. In addition, Registry staff would ensure that the video-link has the minimum technical functionality set out in Article 4 of the Practice Direction on Video Links, and that the applicable protective measures are fully observed.
15. [REDACTED]. [REDACTED].
16. The minimum amount of time normally required by the Registry to implement any order for the use of video-link testimony is [REDACTED] working days, to allow for travel to the location, set-up and testing of the technical equipment in [REDACTED], and to allow for the Witness Protection and Support Office ('WPSO') to complete the necessary witness information and familiarisation process.
17. Should the Panel order the use of video-link testimony for W04422, the Registry would liaise with the competent authorities on the practical details for implementation.

B. Health and Special Needs

18. In accordance with the Registry's relevant internal regulations,¹⁴ WPSO carried out and completed assessments for W04422 on [REDACTED] 2024. [REDACTED]. [REDACTED].

C. Conclusion

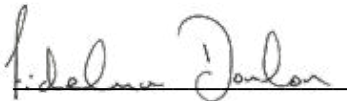
19. In conclusion, at this time, the Registry assesses that it is feasible to conduct the testimony of witness W04422 via video-link, should the Panel so order, in line with the above specifications and the Practice Direction on Video Links.

¹⁴ See Registry Practice Direction on Psychological Assessments and Support to Facilitate Testimony, KSC-BD-19-Rev1, 9 February 2022, LIMITE; see also Registry Instruction, WPSO Guidelines on Services to Witnesses Appearing Before the Specialist Chambers, KSC-BD-42-Rev2, 7 October 2022, LIMITE.

IV. CONFIDENTIALITY

20. Pursuant to Rule 82(3) of the Rules, this submission is filed as confidential and *ex parte* as it contains sensitive operational information. The Registry will file confidential and public redacted versions of this submission.

Word count: 1502

A handwritten signature in black ink, appearing to read 'Fidelma Donlon', written over a horizontal line.

Dr Fidelma Donlon

Registrar

Tuesday, 17 September 2024
The Hague, the Netherlands